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11 | Attorneys for Plaintiff  
Brocade Communications Systems, Inc.

(Additional Counsel shown on signature page)

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

**IN RE BROCADE COMMUNICATIONS  
SYSTEMS, INC. DERIVATIVE  
LITIGATION**

### This Document Relates to:

## **ALL ACTIONS**

**Case No. C 05-02233 CRB**

**STIPULATION AND [PROPOSED]  
ORDER EXTENDING DEADLINE  
FOR PLAINTIFF TO RESPOND TO  
COUNTERCLAIMS**

Courtroom: 8, 19<sup>th</sup> Floor  
THE HONORABLE CHARLES R. BREYER

## **STIPULATION**

WHEREAS, Brocade Communications Systems, Inc. (“Brocade”), by and through the Special Litigation Committee (“SLC”) of Brocade’s Board of Directors, filed a Second Amended Complaint (“SAC”) in this action on August 1, 2008, against ten defendants (Dkt. No. 220);

WHEREAS, on October 6, 2008, each of the ten defendants filed a motion to dismiss the SAC;

WHEREAS, in a December 12, 2008 Order (Dkt. No. 375) (and as further discussed in a January 6, 2009 opinion (Dkt. No. 377)), the Court dismissed all claims in the SAC against five defendants and allowed Brocade to proceed on certain claims against five other defendants:

Gregory Reyes, Neal Dempsey, Seth D. Neiman, Antonio Canova, and Robert D. Bossi;

WHEREAS, defendants Canova and Bossi each have entered into a settlement agreement with Brocade, and Brocade has filed motions for approval of the settlements and entry of contribution bar orders (Dkt. Nos. 393, 402);

WHEREAS, Brocade and the remaining defendants – Reyes, Dempsey, and Neiman –are engaged in discussion on procedures for a referral of this case to binding arbitration;

WHEREAS, two of the remaining defendants, Neiman and Dempsey, filed counterclaims together with their answers to the SAC (Dkt. Nos. 383, 387) (the “Counterclaims”);

WHEREAS, under the Federal Rules of Civil Procedure, Brocade's answer or other response to the Counterclaims is due February 12, 2009;

WHEREAS, in view of the parties' ongoing discussion regarding a referral of this case to arbitration, Brocade and defendants Neiman and Dempsey respectfully request that this Court extend by two weeks Brocade's deadline to answer or otherwise respond to the Counterclaims.

IT IS HEREBY STIPULATED by and between Brocade and defendants Neiman and Dempsey, subject to this Court's approval, that Brocade's deadline to answer or otherwise respond to the Counterclaims shall be extended to and including February 26, 2009.

1 Dated: February 12, 2009

DEWEY & LEBOEUF LLP

3 /s/ Peter E. Root

4 Peter E. Root

5 Attorneys For Plaintiff  
6 Brocade Communications Systems, Inc.

7  
8 Dated: February 12, 2009

WILMER CUTLER PICKERING HALE &  
DORR

10 /s/ Jonathan A. Shapiro

11 Jonathan A. Shapiro

12 Attorneys For Defendant Seth D. Neiman

13  
14 Dated: February 12, 2009

K&L GATES LLP

15 /s/ Jeffrey L. Bornstein

16 Jeffrey L. Bornstein

17 Attorneys For Defendant Neal Dempsey

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1                   **ATTESTATION PURSUANT TO GENERAL ORDER 45**

2                   I, Peter E. Root, am the ECF User whose ID and password are being used to file  
3 this Stipulation and [Proposed] Order Extending Deadline For Plaintiff To Respond To  
4 Counterclaims. In compliance with General Order 45.X.B., I hereby attest that concurrence in the  
5 filing of this document has been obtained from each of the other signatories. I declare under  
6 penalty of perjury under the laws of the United States of America that the foregoing is true and  
7 correct.

8                   Executed this 12<sup>th</sup> day of February 2009, at East Palo Alto, California.

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10                   \_\_\_\_\_  
11                   /s/ Peter E. Root  
Peter E. Root

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13                   **ORDER**

14                   PURSUANT TO STIPULATION, IT IS SO ORDERED

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16                   DATED: Feb. 13, 2009

